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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,406	01/30/2004	Paul Brent Rivers	03-BS049 (BS030571)	6933
7590 Bambi F. Walters P.O. Box 5743 Williamsburg, VA 23188			EXAMINER WOOD, KIMBERLY T	
			ART UNIT 3632	PAPER NUMBER

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/768,406

Applicant(s)

RIVERS ET AL.

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) 1-16 and 22 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 17-21 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/24/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

This is an office action for serial number 10/768,406, entitled Serving Terminal Illuminator, filed on January 30, 2004.

***Election/Restrictions***

Claims 1-16 and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 28, 2005.

***Response to Traversal of Election of Species***

Applicant's election with traverse of species I-IV in Paper filed on March 28, 2005 is acknowledged. The traversal is based on the grounds that the embodiments are directed to a unitary concept and based on various policy arguments. These arguments are unpersuasive. The arguments set forth by the applicant (i.e., a want of a serious burden on the examiner, or inventions having the same classification) are arguments commonly set forth when traversing a restriction of the invention. (See MPEP 803). However, the examiner is requiring the applicant to elect between several disclosed species. A proper traversal of an election of species includes arguments that the species are not

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patentable over one another. What's more, if patentably different species are disclosed in the application, "... it is not necessary to show a separate status in the art or separate classification." (See MPEP 808.01(a)). While there is a policy of compact prosecution, the plain language of the rules set forth that an examiner may require an election of species between patentably different species (see MPEP 808.01(a); 37 CFR 1.146). The argument regarding excessive expense is unpersuasive since excessive is a relative concept. Furthermore, as the applicant is aware, a separate fee schedule has been provided for those claiming small-entity status. Finally, there is no policy to reduce the number of patents; in fact, an argument could be made that it is less confusing to have a separate patent for each distinct embodiment. Since the applicant has not submitted persuasive arguments that the embodiments are not distinct from one another, the requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

The abstract of the disclosure is objected to because the form and legal phraseology often used in patent claims, such as

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"means" and "said," should be avoided as found in line 7.

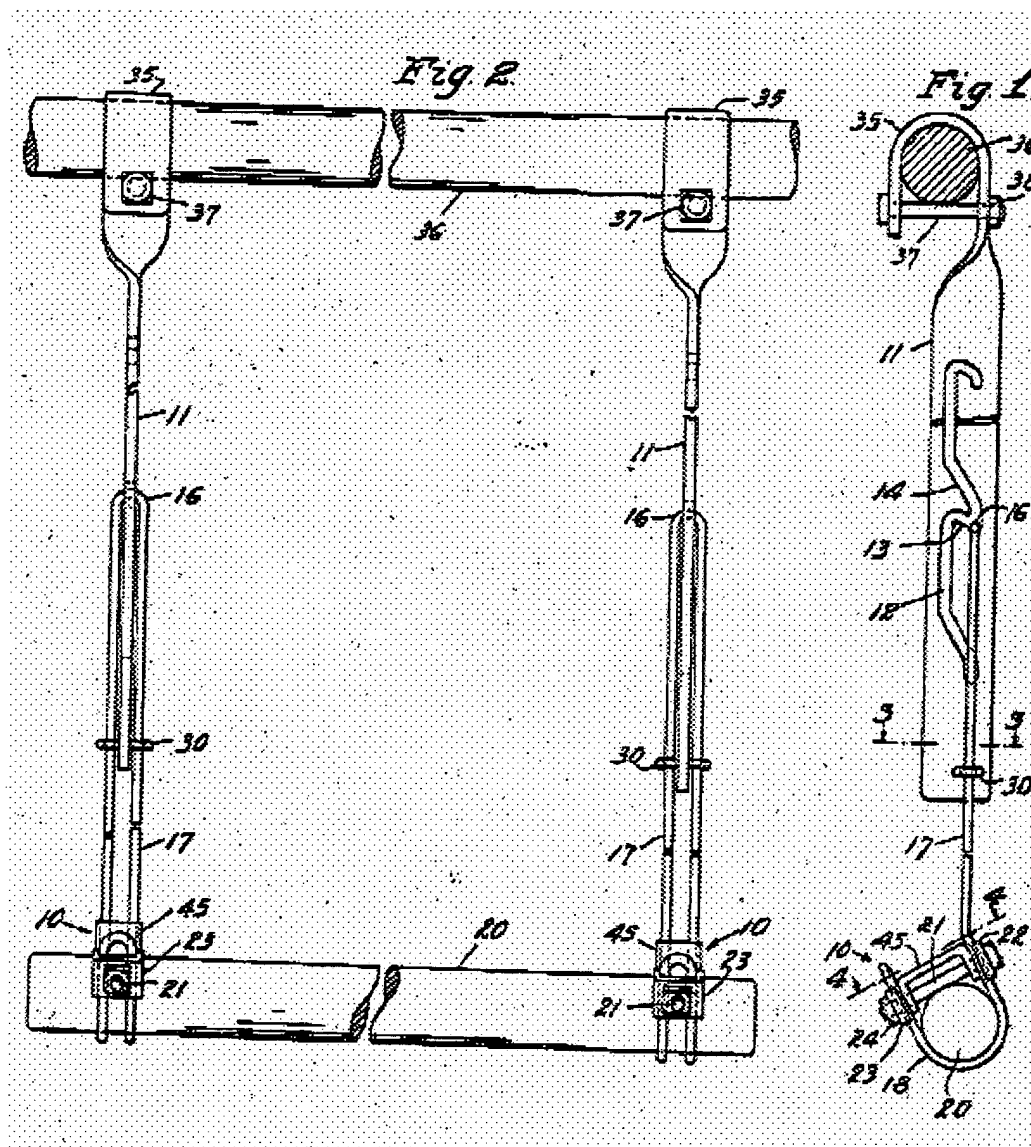
Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

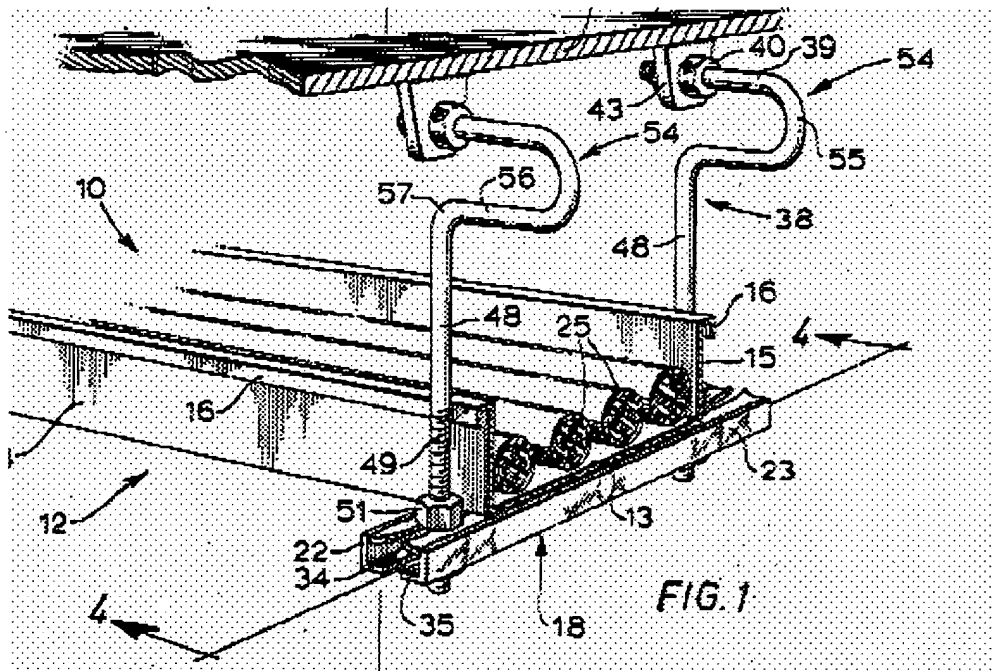
Claims 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witter 2,193,215. Witter discloses a hanging tool support assembly comprising a pair of inverted, parallel J-shaped hangers (figure 2) comprising a front and rear hanger (left and right hanger); the front hanger having a top portion (below 37), a vertically adjustable middle portion (near 16), and a bottom portion (below 17); the rear hanger comprises a top portion and a movable bottom portion; a tool support base plate (45), a means to secure (21 and 18), an attachment means (37).



Witter discloses all of the limitations of the claimed invention except for the base plate attached to the bottom portion the front hanger and to the bottom portion of the rear hanger. Tardoskegyi teaches that it is known to have a hanging tool support assembly comprising a pair of inverted, parallel U-shaped hangers (54) comprising a front and rear hanger (left hanger and right hanger); each hanger having a free end and a

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downwardly extending arm wherein the front hanger having a top portion (between 57 and 48), a vertically adjustable middle portion (51 being female cylinder and threaded portion is the male shaft), and a bottom portion (52); the rear hanger comprises a top portion (between 57 and 48) and a movable bottom portion (52); a tool support base plate (18), a means to secure (15), an attachment means (40).



It would have been obvious to one having ordinary skill in the art to have modified Witter to have included the base plate attached to the bottom portion of the front hanger and the moveable bottom portion of the rear hanger as taught by Targoskegyi for the purpose of reducing the number of parts

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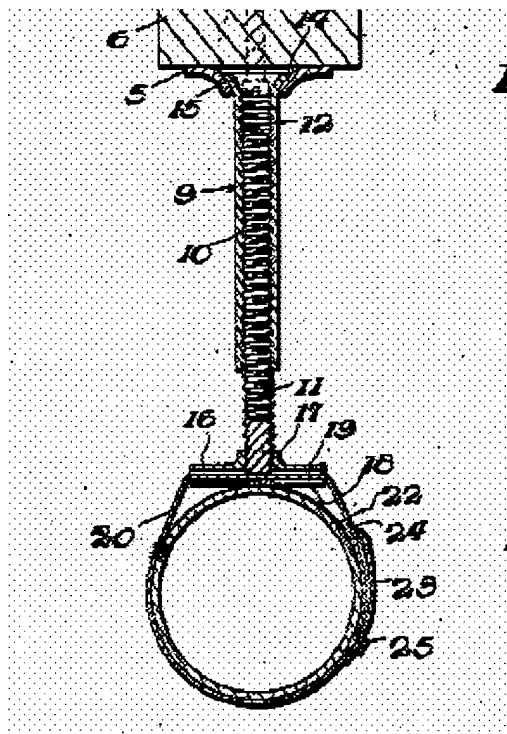
being used therefore reducing the cost and reducing the assembly time since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Claims 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Targoskegyi 3,960,350 in view of Witter 2,193,215, as discussed above. Targoskegyi discloses all of the limitations of the claimed invention except for the inverted parallel J-shaped hanger. It would have been obvious to one having ordinary skill in the art to have modified Targoskegyi to have made the pair of hanger parallel J-shaped as taught by Witter for the purpose of providing a better securing means for attaching the assembly to various supports.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Witter in view of Targoskegyi in further view of Flower 2,161,782. Flower discloses a downwardly extending arm comprising a top portion (5), a vertically adjustable middle portion having a female cylinder (10) and a male shaft (11), wherein the female cylinder attaches to the top portion and the male shaft attaches to the bottom portion, and a bottom portion (near 17).



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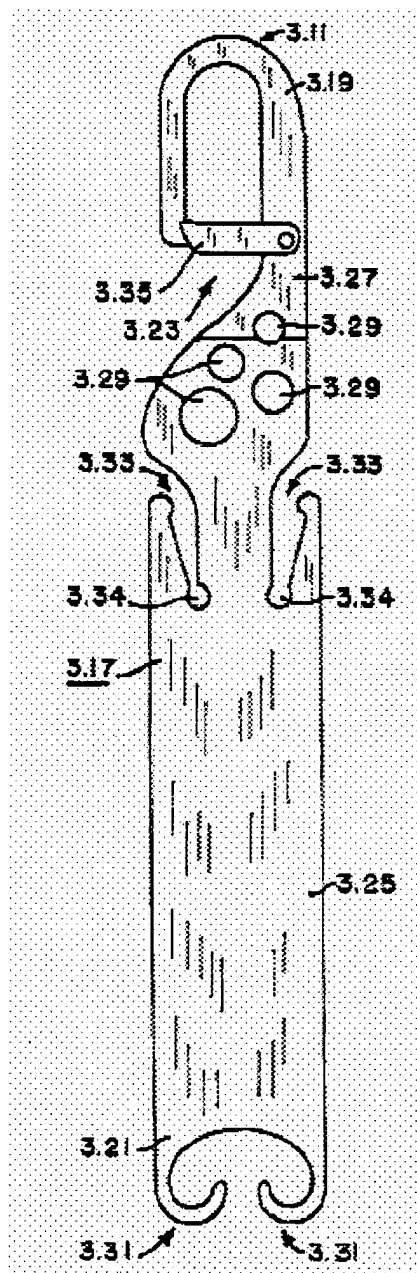
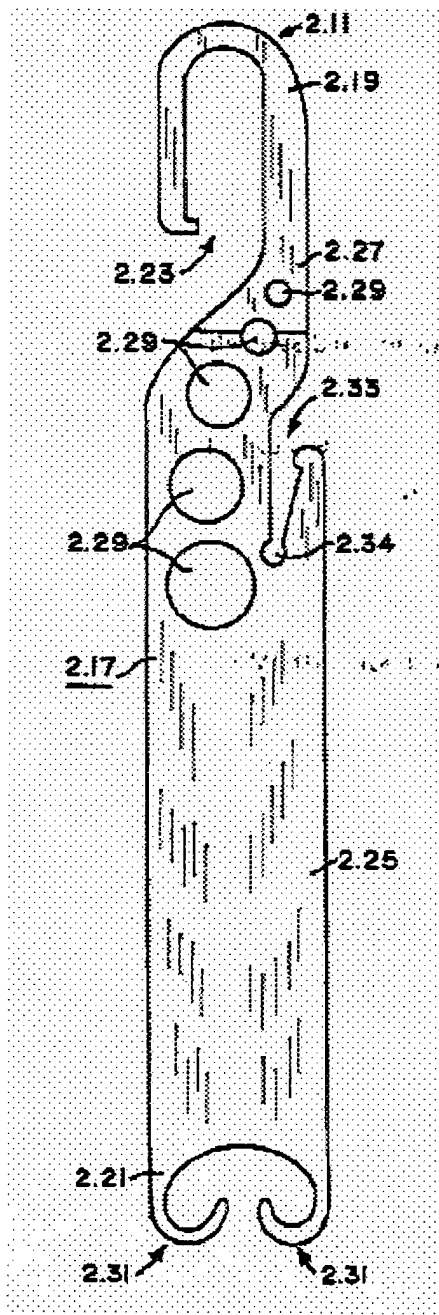


It would have been obvious to one having ordinary skill in the art to have modified Witter in view of Targoskegyi the female cylinder attaches to the top portion and the male shaft attaches to the bottom portion as taught by Flower for the purpose of facilitating adjustment of the length of the hanger.

Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witter in view of Tagoskegyi in further view of Atchley et al. (Atchley) 2003/0025056A1. Witter in view of Tagoskegyi disclose all of the limitations of the claimed invention except for the attachment means being a lever and a lip wherein the lever attaches to an inner portion of the free end and a lip attaches to an inner portion of the downwardly

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extending end. Atchley teaches that it is known to have a lever (3.35) with a joint and lip (near 2.23).



It would have been obvious to one having ordinary skill in the art to have modified Witter in view of Tagoskegyi to have included the hook as taught by Atchley for the purpose of facilitating removal and attachment of the hanger on the support line. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the lever and the lip wherein the lever attaches to an inner portion of the free end and a lip attaches to an inner portion of the downwardly extending end, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

#### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art discloses conventional hanger means.

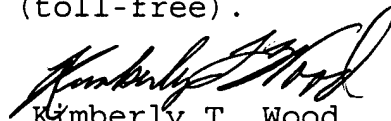
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 571-272-6815. The fax phone number for the

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organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kimberly T. Wood  
Primary Examiner  
Art Unit 3632

June 21, 2005